

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES M. BUTLER, III and
CHOLE BUTLER,

Plaintiffs,

v.

UNIFIED LIFE INSURANCE COMPANY,
HEALTH PLANS INTERMEDIARIES
HOLDINGS, LLC, D/B/A HEALTH
INSURANCE INNOVATIONS, HEALTH
INSURANCE INNOVATIONS, INC.,
ALLIED NATIONAL, INC., NATIONAL
BROKERS OF AMERICA, INC., THE
NATIONAL CONGRESS OF EMPLOYERS,
INC., and DOES 1-10,

Defendants.

Cause No. 5:19-mc-0004-MMB

FILED
MAR 18 2019
KATE BARKMAN, Clerk
By _____ Dep. Clerk

ORDER

This Rule 45 Motion has been filed in this Court relating to litigation pending in the District of Montana. From reviewing the Motion and the attachments, it appears that the Plaintiffs have a legitimate and reasonable need for the documents which they allege are in the possession, custody or control of the National Brokers of America, Inc. ("NBoA"), and this Court has jurisdiction to enforce the subpoena.

The Court set January 30, 2019 as NBoA's deadline to respond to the Motion, and February 1, 2019 as Plaintiffs' deadline to reply to any such response (Dkt. 2). NBoA failed to respond by January 30, 2019. On February 4, 2019, the Court denied the Motion as moot and ordered the Clerk to close the case (Dkt. 3).

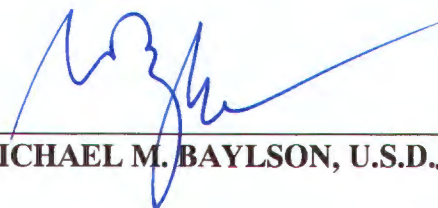
On February 12, 2019, the Court revisited and vacated its February 4, 2019 Order. Also on February 12, 2019, the Court Ordered: (1) the Clerk to re-open the case; (2) Plaintiffs to serve a copy of the February 12, 2019 Order on NBoA on or before February 15, 2019; and (3) NBoA to respond to Plaintiffs' Rule 45 Motion on or before February 22, 2019 (Dkt. 4.) The February

12, 2019 Order warned NBoA that, if it failed to timely file an opposition to Plaintiffs' Motion, the Court "may grant the Motion as unopposed, without further notice, and enter such other relief as may be appropriate." (Id.)

It appears to the Court that Plaintiffs complied with the February 12, 2019 Order. On February 12, 2019, Plaintiffs caused to be served upon NBoA, through its registered agent, a copy of the February 12, 2019 Order, as well as another copy of the their Rule 45 Motion. (See Ex. A.) Service was completed the following day, February 13, 2019. (See Ex. B.) It appears to the Court that NBoA did not comply with the February 12, 2019 Order insofar as NBoA did not file an opposition by February 22, 2019, or since.

Upon consideration of the Motion, and in light of the foregoing, it is hereby **ORDERED** that the Motion is **GRANTED** as unopposed. It is **FURTHER ORDERED** that NBoA shall provide all documents requested in the Subpoena attached to the Motion within ten (10) days of this Order. Failure to do so within the time limits set forth shall result in NBoA being sanctioned upon application to the Court. The Court retains jurisdiction to enforce this Order.

BY THE COURT:



MICHAEL M. BAYLSON, U.S.D.J

Dated: 3/18/19

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February 12, 2019

VIA Overnight Mail

National Brokers of America, Inc. c/o
Northwest Registered Agent Service, Inc.
6545 Market Avenue North, Suite 100
North Canton, Ohio 44721

**Re: Butler v. Unified Life Insurance Company, et al.,
U.S.D.C. for the District of Montana, No. CV-17-50-SPW-TJC &
U.S.D.C. for the Eastern District of Pennsylvania, No. 19-mc-04-MMB**

To whom it may concern:

This firm represents Plaintiffs, Charles M. Butler III and Chole Butler, as local counsel, with regard to the above-captioned matter. The case is pending in the U.S. District Court for the District of Montana. Lead counsel for Plaintiffs caused to be served upon National Brokers of America, Inc. ("NBoA") a subpoena, which NBoA ignored. As a result of NBoA's failure to comply with the subpoena, undersigned counsel filed a motion to enforce the subpoena in the U.S. District Court for the Eastern District of Pennsylvania, which has jurisdiction to enforce the subpoena. I caused the motion to enforce to be served upon NBoA, through its agent, Northwest Registered Agent Service, Inc., on January 9, 2019. NBoA has yet to respond to the motion.

Earlier today, the Court entered an Order setting NBoA's deadline to respond to the motion as February 22, 2019. I enclose herewith a copy of the Order, for service on NBoA. I have also enclosed herewith another copy of the motion to enforce, for ease of reference.

Sincerely,

/s/ Benjamin E. Gordon

Benjamin E. Gordon

Enclosures

cc: John Morrison, Esquire (via email)
Robert L. Sterup, Esquire (via email)
Christopher C. Voigt, Esquire (via email)
Monique P. Voigt, Esquire (via email)
David F. Knobel, Esquire (via email)
Katherine S. Huso, Esquire (via email)
Ryan J. Gustafson, Esquire (via email)

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Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1ZA6T9980191007931

Weight

0.50 LBS

Service

UPS Next Day Air®

Shipped / Billed On

02/12/2019

Delivered On

02/13/2019 9:43 A.M.

Delivered To

CANTON, OH, US

Received By

RTLE

Left At

Reception

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 03/12/2019 9:41 A.M. EST